



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-2900 FAX (603) 271-2456



July 16, 2001

CERTIFIED MAIL #7099 3400 0002 9770 5077
RETURN RECEIPT REQUESTED

Morgan Ryan Realty Trust
c/o Mark Maynard, Trustee
99 Wright Road
Hollis, New Hampshire 03049

SUBJECT: ADMINISTRATIVE ORDER NO. WMD 01-10

Dear Mr. Maynard

Enclosed is Administrative Order WMD 01-10 issued this date to the Morgan Ryan Realty Trust by the Waste Management Division, Department of Environmental Services for violations of RSA 149-M and the New Hampshire Solid Waste Rules.

Should you have any questions regarding this Order, please contact David Rousseau of the Waste Management Division at (603) 271-2925.

Sincerely,

COPY

Richard S. Reed
Administrator
Solid Waste Management Bureau

RSR/DJR/f:admond0110

Enclosure: Administrative Order WMD 01-10

cc: Gretchen Rule, Des Enforcement Coordinator
Public Information Officer
DES PIC Office
NHDOJ-AGO
Hollis Board of Selectmen
Cathy Hallsworth, Hollis Administrative Assistant
Edwin Makepeace, Chairman
Arthur LeBlanc, Hollis Road Agent
Dana Georges, Dana Georges Excavators
John J. O'Neil, P.E.
David J. Rousseau, DES-WMD



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99 Wright Road
Hollis, New Hampshire 03049

ADMINISTRATIVE ORDER
No. WMD 01-10

July 16, 2001

A. INTRODUCTION

This Administrative Order is issued by the Department of Environmental Services, Waste Management Division to the Morgan Ryan Realty Trust pursuant to RSA 149-M:15,I. This Order is effective upon receipt.

B. PARTIES

1. The Department of Environmental Services, Waste Management Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal office at 6 Hazen Drive, Concord, NH 03301.
2. The Morgan Ryan Realty Trust ("Trust") is a realty trust having a mailing address of c/o Mark Maynard, Trustee, 99 Wright Road, Hollis, NH 03049.

C. STATEMENTS OF FACTS AND LAW

1. The Trust is the owner of land located at 73 Mooar Hill Road in Hollis, NH identified on the Town of Hollis Tax Maps as Map 42, Lot 6 ("the Property").
2. Pursuant to RSA 149-M, DES regulates the management and disposal of solid waste. Pursuant to RSA 149-M:7, the Commissioner of DES has adopted Env-Wm 100 – 300, 2100 *et seq.* ("Solid Waste Rules") to implement this program.
3. RSA 149-M:4, IX defines "facility" as "a location, system, or physical structure for the collection, separation, storage, transfer, processing, treatment, or disposal of solid waste".
4. RSA 149-M:9, I states that "[n]o person shall construct, operate, or initiate closure of a public or private facility without first obtaining a permit from [DES]".
5. A solid waste disposal facility ("Landfill") exists on this Property.
6. Condition 1. of the Permit states that "(t)he facility shall be closed in conformance with the requirements of the New Hampshire Solid Waste Rules (Rules) and in accordance with plans to be approved by the Department of Environmental Services, Waste Management Division."
7. On March 13, 1998, DES issued Record of Modification ("the Modification") to the Permit thereby approving the closure construction plans. The plans, as prepared by John J. O'Neil, Inc. on behalf of the Trust, describe the removal of the Landfill with a project completion date of "[c]irca October 1999."

8. Pursuant to Env-Wm 307.08(b)(3) of the Solid Waste Rules, and Condition 1.b. of the Modification, the final completion date of the project was October 31, 1999.
9. DES notified Mr. Maynard by certified letter dated August 11, 1999 that "pursuant to Condition 1.b. of the permit modification, the construction schedule reflects October 31, 1999 as the completion date of the project".
10. On June 5, 2000, DES staff visited the Property. Closure activity was being conducted at the Landfill at the time of the visit.
11. In a telephone conversation held on June 8, 2000, DES informed Mr. Maynard that the deadline to complete the closure had been missed.
12. On June 21, 2000 and June 29, 2000, DES staff visited the Property. Closure activity was being conducted at the Landfill at the time of both visits.
13. In a meeting held on September 6, 2000, DES staff and Mr. Maynard discussed the removal of the Landfill from the Property. At the meeting, Mr. Maynard was informed that the deadline to complete the closure had been missed. At the meeting, Mr. Maynard agreed to complete the project within eight months, by May 2001.
14. In a letter dated November 13, 2000, DES requested that Mr. Maynard provide DES with a letter committing to the completion of the project. No such letter has been received.
15. In a letter dated May 21, 2001, the Town of Hollis informed DES that construction activity is "sporadic" and "the Subject landfill work has not been completed."

D. DETERMINATION OF VIOLATIONS

1. The Morgan Ryan Realty Trust has violated Env-Wm 307.08(b)(3) of the Solid Waste Rules by failing to complete facility closure in accordance with the schedule approved by DES.

E. ORDER

Based on the above findings, DES hereby orders Mark Maynard as follows:

By August 24, 2001, complete the removal of the Landfill from the Property

2. **By August 31, 2001**, certify in writing to DES that all material has been removed from the Property.
3. Send correspondence, data, reports, and other submissions made in connection with this Administrative Order, **other than appeals**, to DES as follows:

David J. Rousseau, Supervisor, Solid Waste Compliance Section
DES Waste Management Division
6 Hazen Drive
Concord, NH 03301
Fax: (603) 271-2456

e-mail: drousseau@des.state.nh.us

F. APPEAL

Any person aggrieved by this Order may appeal the Order to the Waste Management Council by filing an appeal that meets the requirements specified in Env-WMC 2000 within 30 days of the date of this Order. Copies of the rule are available from the DES Public Information Center at (603) 271-2975 or at <http://www.des.state.nh.us/desadmin.htm>. Appealing the Order does not automatically relieve the Morgan Ryan Realty Trust of the obligation to comply with the Order.

G. OTHER PROVISIONS

Please note that RSA 149-M provides for administrative fines, civil penalties, and criminal penalties for the violations noted in this Order, as well as for failing to comply with the Order itself. The Morgan Ryan Realty Trust remains obligated to comply with all applicable requirements, in particular RSA 149-M and the New Hampshire Solid Waste Rules. DES will continue to monitor the Trust's compliance with applicable requirements and will take appropriate action if additional violations are discovered.

This Order is being recorded in the Hillsborough County Registry of Deeds so as to run with the land.

COPY
Philip J. O'Brien, Director
Waste Management Division

COPY
Robert W. Varney, Commissioner

Certified Mail/RRR: 7099 3400 0002 9770 5077

cc: Gretchen Rule, DES Enforcement Coordinator
Public Information Officer, DES PIP Office
NH AGO
Hollis Board of Selectmen
Ed Makepeace, Chairman, Hollis Planning Board
Art LeBlanc, Hollis Road Agent
Dana Georges, Dana Georges Excavators
David J. Rousseau, DES WMD